

> ACTIVISTS ALLOW EPA TITLE V GUIDANCE DELAY, ANTICIPATE STATE TAKEOVER

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> Environmentalists are agreeing to waive an upcoming deadline for U.S.
> EPA to release a guidance document for large animal feedlots to apply
> for Clean Air Act Title V operating permits, based on their confidence
> that legislation requiring the state take over the entire Title V
> program will be signed. While Title V applies statewide, the vast
> majority of affected farms and ranches are located in the Central
> Valley.

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> Earthjustice, which represents several environmental groups that sued
> over the failure of EPA to enforce Title V on California's agriculture
> industry, is agreeing to a delay in EPA's plan to require certain animal
> feedlot facilities to apply for permits, from Aug. 1 to Nov. 1. They are
> confident that a state bill, SB 700 (Sen. Dean Florez, D-Shafter), will
> be signed by the governor in the interim, giving the state control over
> the entire permitting program, which also includes "major" sources such
> as diesel-engine stationary sources. The state law will be more
> stringent than what would have been required under EPA's plan, sources
> say. "We brought the litigation because we want the state to remove the
> agriculture exemption," said an Earthjustice source. "We didn't want EPA
> to run the program forever."

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> EPA headquarters officials are drafting the guidance document that will
> be used to determine which confined animal feeding operations (CAFOs)
> must apply for the Title V permit, according to an EPA Region IX source.
> Regional officials had expected the document to be completed in early
> June. The delay is expected to push back the original Aug. 1 application
> deadline.

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> But the plan contained in SB 700 has already been deemed to be
> acceptable to EPA, making the permit application deadline issue moot as
> long as the bill is signed. However, the legislation is currently being
> amended and is expected to be heard next week by the Assembly Natural
> Resources Committee. The bill would require agricultural stationary
> sources to obtain, by Jan. 1, 2005, every operating permit required by
> the Clean Air Act for stationary sources. The bill is expected to be
> amended to require the air districts to draft a list of acceptable
> measures to reduce air pollution from the permitted sources.

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> If the bill is signed later this year, it would take effect on Jan. 1,
> 2004, and the state would have one year after that to put the program in
> place and begin issuing permits, according to the Earthjustice source.
> "So a four-month delay in the application deadline is not that big of a
> deal."

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> Earlier this year, the environmentalists refused to budge on a separate
> mid-May deadline for "major" agricultural sources of pollution not
> related to animal feedlots -- specifically defined as those facilities
> with diesel irrigation pumps that emit more than 25 tons per year (tpy)
> -- to apply for permits under Title V. But Earthjustice sued EPA in late
> May, charging that it violated the law by allowing the farms and ranches
> in that category to estimate their own emissions to decide whether they
> are subject to the permit, rather than calculating their "potential to
> emit." That legal action is pending in the U.S. Ninth Circuit Court of
> Appeals. Environmentalists were dismayed to learn that only 26 "major
> source" facilities applied for the Title V permits, and EPA deemed only
> 18 as being required to obtain the permits. One of the reasons the
> numbers are so low is that EPA has proposed to reclassify many diesel
> irrigation pumps as mobile sources, and therefore not subject to Title V
> permitting. Environmentalists are challenging that proposal through the
> regulatory development process.

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> Under the Clean Air Act, major sources are defined based on the
> attainment status of the district where they are located. In the San

> Joaquin Valley, which is classified as a severe nonattainment area for
> ozone, the threshold for major sources is 25 tpy for emissions of
> nitrogen oxide or volatile organic compounds (VOCs). For serious
> nonattainment areas, the threshold is 50 tpy; in moderate areas it is
> 100 tpy; and in attainment areas the threshold is 250 tpy. The Title V
> permitting dispute has focused on the Central Valley because it has the
> most CAFOs in the state, which emit large amounts of VOCs.
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> Title V permitting does not limit emissions specifically, but it
> requires facilities to report pollution data to local air districts,
> which could eventually require the facilities to install pollution
> control equipment as well as require new facilities to provide more
> pollution offsets.
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> Environmentalists acknowledge that the requirements under SB 700 will
> not immediately reduce pollution from farms and ranches in the state,
> but believe the implementation of Title V is a huge victory. "The
> agriculture industry is extremely powerful in Sacramento and Washington,
> D.C., and they've had a completely free pass," said the Earthjustice
> source. "This is the first time they will have to apply for permits, and
> yes, there are not going to be strict limitations immediately, but it
> will be a process by which the two sides will take information and start
> looking at available technologies. And, slowly, better technologies will
> be implemented."
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> Being subject to Title V permitting also opens agricultural facilities
> and local air districts to citizen suits for failure to comply. The
> permits "provide the blueprint for enforcement, and we'll know what the
> permit requirements are," the source added.
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